IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5561 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC, VAHAN VYAVAHAR BHAVAN, GEETA MANDIR ROAD,
Versus
LAXMIDAS, RAJABHAI JAGANI AT NANDARBI VIA JOSHIPURA

Appearance:
MR HARDIK C RAWAL for Petitioner
MR JS BRAHMBHATT for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 10/08/2000

ORAL JUDGEMENT

1. Petitioner, Gujarat State Road Transport Corporation has filed the present petition for quashing

the judgment & award passed by the Labour Court, Junagadh on 21-12-1999 in Reference (LCJ) No. 13 of 1998. The respondent Laxmidas Rajabhai Jagani was appointed as Conductor under the petitioner Corporation. On 24-2-1995 respondent was on duty as a conductor in the bus on Rajkot-Veraval route. On that day a surprise check was conducted by the Corporation, and on surprise check it was found that the respondent is involved in financial irregularities. On the basis of the surprise check, report was submitted and the disciplinary proceeding was started against the respondent. The departmental proceeding was conducted in accordance with the provisions of the rules and procedure and in the departmental proceeding the charges against the respondent were proved. The disciplinary authority after hearing the respondent and after considering report of the Inquiry Officer dismissed the respondent from service by an order dated 18-4-1996. The departmental appeal filed by the respondent was also dismissed by the appellate authority. Thereafter, the respondent invoked jurisdiction of the Labour Court, Junagadh which registered the reference being Reference (LCJ) 13 of 1998. Labour Court after taking evidence and after hearing the parties allowed the petition in part by judgment & award dated 21-12-1999. The Labour Court quashed the order of termination passed by the Corporation and directed the Corporation to reinstate the respondent in service with 65 % back wages and cost of Rs.1000/-.

2. Mr. Rawal, learned counsel appearing on behalf of the petitioner submitted that the Labour Court did not consider that the respondent was involved in financial irregularities and misappropriation of public money. Learned counsel also submitted that, during the service the respondent committed 11 misconducts and those misconducts have been recorded in his default card. The respondent was repeatedly warned and cautioned by the Corporation but in spite of that, he did not rectify himself and continued in the misappropriation of public money. Learned counsel accordingly submitted that, misappropriation of public money being a serious offence the Labour Court should not have interfered with the dismissal order passed by the Corporation. It is submitted that he respondent collected money from the passengers but did not issue tickets and thereby misappropriating the money. It is also submitted, if such persons are retained in service, they will indulge in misappropriation of money and the Corporation will face serious financial constrains. Learned counsel accordingly submitted that, having regard to the past

conduct of the respondent and the nature of offence committed by the respondent, the Labour Court should not have interfered with the order of dismissal passed by the petitioner. It is also submitted that the Labour Court has taken a very lenient view in the matter of respondent and therefore the judgment & award of the Labour Court should be quashed.

3. Learned counsel for the respondent submitted that the petitioner did not adduce any evidence before the Labour Court regarding past conduct of the petitioner. It is also submitted that there was some irregularities in the departmental proceeding. It is also submitted that, although the Labour Court did not quash the departmental proceeding, it is observed that there are certain defects in the departmental proceeding.

4. I have considered the submission of the learned counsel of both the parties. In the instant case, it appears that the respondent is charged with misappropriation of public money and in the departmental proceeding the charge was proved. There may be some technical irregularity or defect in the proceeding, but non issuance of the tickets to the passengers after realising the money has been admitted by the passengers themselves. Therefore, this fact cannot be denied by the respondent. It appears that the Labour Court even though did not quash the departmental proceeding has taken a lenient view in the matter of penalty. Considering the past conduct of the respondent, and the nature of offence committed by him, I am of the view that the Labour Court has taken a too lenient view in the matter of punishment. I do not like to interfere with the matter of reinstatement passed by the Labour Court. But payment of 65 % back wages appear to be unreasonable and further when the charges have been proved, I am of the view that some amount of penalty should be imposed on the respondent. Having regard to the facts & circumstances of the case, I am of the view that the reduction of back wages from 65 % to 35 % and penalty of withholding of two increments with cumulative effect will meet the ends of justice. Accordingly the judgment & award of the Labour Court passed in Reference (LCJ) No. 13 of 1998 on 21-12-1999 is modified to the extent that the respondent shall be entitled to 35 % of the back wages, and two yearly increments of the respondent shall be withheld with cumulative effect. I do not interfere with the order of the Labour Court regarding reinstatement of the respondent in service. With the aforesaid modification in the judgment & award of the Labour Court, this petition is allowed in part. Rule made absolute to the

aforesaid extent. However, I make no order as to costs.

Dt: 10-08-2000 (P.K. Sarkar, J)

/vgn.